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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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GORDON & REES LLP 101 WEST BROADWAY SUITE 1600 SAN DIEGO, CA 92101			SHIMIZU, MATSUICHIRO	
			ART UNIT	PAPER NUMBER
			2635	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/535,076

Applicant(s)

FRENCH ET AL.

Examiner

Matsuichiro Shimizu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

The examiner acknowledges amended claims 1 and 5.

The examiner objects to the abstract because the phrase “one aspect of invention” is repetitive, and should be avoided as provided in the 1st office action filed on 7/30/2004.

Response to Arguments

Regarding applicant's remark (lines 4–5, page 7), the examiner apologizes for the confusion by entering “Claims 1–3 are rejected under 35 U.S.C. 102(b)” in the 1st office action filed on 7/30/04. It should have been “Claim 1 is rejected under 35 U.S.C. 102(b)”.

Applicant's arguments filed on 10/29/04 have been fully considered and examiner's response is provided as follows:

Regarding applicant's arguments (lines 7–11, page 7; lines 12–14 and 23), the applicant's argument regarding claim 1 is not persuasive because applicant appears to be arguing against Larson under 35 USC 102 of claim 1. However, applicant refers to examiner's double patenting rejection “(office action, page 4)” to support his position. This makes the argument confusing. Therefore, rejection stands as addressed in this office action.

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Regarding applicant's argument (lines 3-4, page 8), Larson teaches the returned cart with a particular customer for a customer reward program (col. 8, lines 2-54, reward associated with discount coupon 23 or key 22 associated with customer identification).

Regarding applicant's argument (lines 10-14, page 8), Pare teaches a second interface which receives a second set of customer identification signals from the customer (Fig. 3, col. 5, lines 19-22, biometric input 13) to provide the higher level of security.

Regarding applicant's argument (lines line 20, page 9 to line 3, page 10), the applicant's argument regarding claims 1-16 is not persuasive because the obvious double patent rejection includes US 6,486,768 in view of Larson. Applicant makes no reference to the US 6,486,768 patent.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The phrase "one aspect of invention" is repetitive, and should be avoided.

Therefore, rejection of claims 1-16 follows:

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 5-6, 8-11, 13-14 and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 31-34, 36 and 39 of U.S. Patent No. 6,486,768 in view of Larson et al. (5,708,782).

Regarding claims 1-3, 5-6, 8-11, 13-14 and 16, US-768 claims a method of providing an incentive for a customer of a store to return a shopping cart to a cart return location having a detection loop at the entrance to the cart return location, the method comprising: detecting a change in inductance of the loop when a cart is moved proximate to the detection loop; generating a cart signal, which is indicative of a returned cart, responsive to the change of inductance; inputting a customer identification code proximal in time to the cart return signal, wherein the customer identification code is unique to each customer; and storing the customer identification code in a memory (-768, claim 31); updating a customer loyalty database index by the

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customer identification code with a pre-specified number of points associated with a cart return; the customer identification code is obtained from a customer identification card (-768, claim 32); generating a signal indicative of a cart return status (-768, claim 33); activating an indicator responsive to the signal indicative of the cart return status (-768, claim 34); storing the customer identification code in a computer affiliated with the store (-768, claim 36); and storing the customer identification code in the computer comprises wireless signaling between the cart return location and the computer (-768, claim 39). But US-768 is silent on apparatus associated with a cart is returned to a cart corral, customer identification signals which are entered and a customer reward program.

However, Larson teaches, in the art of cart return system, apparatus associated with a cart is returned to a cart corral, customer identification signals which are entered and a customer reward program (col. 8, lines 2-5, location associated with cart return; Fig. 3, col. 5, lines 19-22, manually operable key pad 14; abstract, 1-5, redeemable discount coupon associated with reward program) for the purpose of enhancing cart return system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a cart is returned to a cart corral, customer identification signals which are manually entered wirelessly and a customer reward program in the device of PAT-768 because PAT-768 suggests location area where cart is returned, inputting customer identification code, and updating a customer loyalty database index by the customer identification code with a pre-specified number of points associated with a cart return and Larson teaches apparatus associated with a cart is returned to a cart corral, customer identification

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signals which are manually entered wirelessly and a customer reward program for the purpose of enhancing cart return system.

Claims 4, 12 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 32 of US Patent (6,486,768) in view of Larson as applied to claims 2 and 11 above, and further in view of Pare et al. (6,154,879).

Regarding claims 4, 12 and 15, PAT-768 claims the customer identification code is obtained from a customer identification card. But PAT-768 is silent on the data processing section only receives the second set of signals due to a failure of the first interface; and the customer identification interface is a keypad and a biometrics subsystem.

However, Pare discloses, in the same field of endeavor of object detection system, the data processing section only receives the second set of signals due to a failure of the first interface (col. 5, lines 19-22, Key pad or biometric input); and the customer identification interface is a keypad and a biometrics subsystem (col. 5, lines 19-22, and keypad (14) and biometric input device (12)) to provide the higher level of security. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the data processing section only receives the second set of signals due to a failure of the first interface; and the customer identification interface is a keypad and a biometrics subsystem in the device of PAT-768 in view of Larson as evidenced in the device of Pare because PAT-768 in view of Larson suggests customer identification interface is a smart card reader and Pare teaches the data processing section only receives the second set of signals due to a

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failure of the first interface; and the customer identification interface is a keypad and a biometrics subsystem to provide the higher level of security.

Claim 7 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 31 of US Patent (6,486,768) in view of Larson as applied to claim 6 above, and further in view of Buckens (4,623,877).

Regarding claim 7, PAT-768 claims a method of providing an incentive for a customer of a store to return a shopping cart to a cart return location having a detection loop at the entrance to the cart return location, the method comprising: detecting a change in inductance of the loop when a cart is moved proximate to the detection loop; generating a cart signal, which is indicative of a returned cart, responsive to the change of inductance; inputting a customer identification code proximal in time to the cart return signal, wherein the customer identification code is unique to each customer; and storing the customer identification code in a memory. But PAT-768 in view of Larson fails to claim a loop oscillator circuit and a processing circuit, connected to the loop oscillator circuit.

However, Buckens discloses, in the same field of endeavor of object detection system, a loop oscillator circuit and a processing circuit, connected to the loop oscillator circuit (30, Fig. 1, Figs. 6A-C, col. 4, line 58 to col. 5, line 5; col. 8, lines 12; col. 26, lines 12-22, general detection system) to detect the presence of object whereby the mechanism distinguish between signals produced by true targets and signals produces by other pieces of metal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a loop oscillator circuit and a processing circuit, connected to the loop oscillator circuit in the device of PAT-768 in view of Larson as evidenced in the device of Buckens because

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PAT-768 in view of Larson suggests object detection for detecting objects and Buckens teaches loop oscillator circuit and a processing circuit, connected to the loop oscillator circuit to provide the detailed circuit associated with a detection loop for detecting objects.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Larson et al. (5,708,782).

Regarding claim 1, Larson discloses a cart return system (col.3, lines 40–47, the return of shopping cart) comprising: a sensor which is activated when a cart is returned to a cart corral (col. 8, lines 2–5, activating the computer (21) upon sensing a cart return); a plurality of customer identification signals which are entered at the cart corral (col. 7, lines 24–34, identification signal is signal from the key (22) belonging to the customer and manually inserted into the reader 25); and a data processing section (col. 8, lines 23–41, data processing according to software) at receiving signals from the sensor and the customer input signals so as to associate the returned cart with a customer identification (col. 7, line 60 to col. 8, line 54, identification associated with issued coupon 23 or key (22) card) for a customer rewards program.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2–4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson in view of Pare et al. (6,154,879).

Regarding claim 2, Larson discloses a cart return system, comprising: a sensor which is activated when a cart is returned to a cart corral (col. 8, lines 2–5, activating the computer (21) upon sensing a cart return); a first interface which receives a first set of identification signals from a customer (Fig. 3, col. 5, lines 19–22, Key pad 14) and a data processing section (col. 8, lines 23–41, data processing according to software) associating at least one set of customer identification signals with a cart returned signal received from the sensor for a customer rewards program. But Larson is silent

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on a second interface which receives a second set of customer identification signals from the customer .

However, Pare discloses, in the same field of endeavor of object detection system, a second interface which receives a second set of customer identification signals from the customer (Fig. 3, col. 5, lines 19-22, biometric input 13) to provide the higher level of security. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the data processing section only receives a second set of customer identification signals from the customer in the device of Larson evidenced in the device of Pare because Larson suggests a first interface which receives a first set of identification signals from a customer via key pad and Pare teaches a second set of customer identification signals (biometric signal) from the customer to provide the higher level of security.

Regarding claim 3, Larson continues, as disclosed in claim 2, to disclose the system, wherein the data processing section receives both the first (col. 8, lines 2-5, activating the computer (21) upon sensing a cart return) and second (col. 8, lines 2-54, key (22) belonging to customer) sets of signals from the customer.

Regarding claim 4, Pare discloses, in the same field of endeavor of object detection system, the data processing section only receives the second set of signals due to a failure of the first interface (col. 5, lines 19-22, Key pad or biometric input).

Claims 5-11, 13-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson in view of Buckens (4,623,877).

Regarding claim 5, Larson discloses a cart return system for use by a store (Fig. 2, col. 7, line 60 to col. 8, line 41, shopping cart return), the system comprising: a detection sensor (Fig. 2, col. 7, line 60 to col. 8, line 41, sensor indicates cart return)

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arranged at the entrance to a cart return location; a cart detection circuit, being configured for identifying a cart return condition in response to the cart detected condition (Fig. 2, col. 7, line 60 to col. 8, line 41, shopping cart return status), wherein the processing circuit is configured to receive a customer identification (Fig. 2, col. 7, line 60 to col. 8, line 41, customer identification or insertion of customer key (22)) and to associate the customer identification with the cart return condition (Fig. 2, col. 7, line 60 to col. 8, line 41, shopping cart return status). But Larson does not disclose a detection loop.

However, Buckens discloses, in the same field of endeavor, object detection system, a detection loop, a loop oscillator circuit and a processing circuit, connected to the loop oscillator circuit (30, Fig. 1, Figs. 6A-C, col. 4, line 58 to col. 5, line 5; col. 8, lines 12; col. 26, lines 12-22, general detection system) to detect the presence of object whereby the mechanism distinguish between signals produced by true targets and signals produces by other pieces of metal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a detection loop, a loop oscillator circuit and a processing circuit, connected to the loop oscillator circuit in the device of Larson as evidenced in the device of Buckens because Larson suggests an object detection circuit for detecting objects such a s a cart, Buckens teaches one use of detecting objects to include a detection loop, a loop oscillator circuit and a processing circuit, connected to the loop oscillator circuit, one skilled in the art recognizes loop oscillator detecting is an equivalent teaching to detection sensor.

Regarding claim 6, Buckens continues, as disclosed in claim 5, to disclose the system, wherein the cart detection circuit includes a loop oscillator circuit connected to

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the detection loop (30, Fig. 1, Figs. 6A–C, col. 4, line 58 to col. 5, line 5; col. 8, lines 12; col. 26, lines 12–22, general detection system).

Regarding claim 7, Buckens continues, as disclosed in claim 6, to disclose the system, wherein the cart detection circuit includes a loop oscillator circuit connected to the detection loop (30, Fig. 1, Figs. 6A–C, col. 4, line 58 to col. 5, line 5; col. 8, lines 12; col. 26, lines 12–22, general detection system).

Regarding claim 8, Larson continues, as claimed in claim 5, to claim the system,, additionally comprising an output interface connected to the processing circuit, wherein the processing circuit generates an output signal for the output interface based on the cart return condition and the customer identification (Fig. 2, col. 7, line 60 to col. 8, line 41, activation of brand selection screen).

Regarding claim 9, Larson continues, as claimed in claim 8, to claim the system,, wherein the output signal is indicative of a reward for a customer of the store (Fig. 2, col. 7, line 60 to col. 8, line 41, reward via activation of brand selection screen).

Regarding claim 10, Larson continues, as claimed in claim 8, to claim the system, wherein the output interface provides a reward to a customer of the store (Fig. 2, col. 7, line 60 to col. 8, line 41, reward via activation of brand selection screen).

Regarding claim 11, Larson continues, as claimed in claim 5, to claim the system, wherein the processing circuit includes a customer identification interface that provides the customer identification responsive to the cart return condition (Fig. 2, col. 7, line 60 to col. 8, line 41, customer identification or key (22)).

Regarding claim 13, Larson continues, as claimed in claim 11, to claim the system, wherein the customer identification interface is a smart card reader (Fig. 2, col.

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7, line 60 to col. 8, line 41, insertion of key (22) into the key reader (same as smart card reader)).

Regarding claim 14, Larson continues, as claimed in claim 11, to claim the system, wherein the customer identification interface comprises a wireless transceiver (Fig. 6, communication to store via wireless computer (21)).

Regarding claim 16, Larson continues, as claimed in claim 5, to claim the system, wherein the customer identification corresponds to a customer who returns a shopping cart to the cart return location (Fig. 2, col. 7, line 60 to col. 8, line 41, insertion of key (22) into the key reader (same as smart card reader) at cart return location).

Claims 12 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Larson in view of Buckens as applied to claim 11 above, and further in view of Pare.

Regarding claims 12 and 15, Larson continues, as claimed in claims 11, to disclose key associated with the customer identification. But Larson in view of Buckens fails to disclose the data processing section only receives the second set of signals due to a failure of the first interface; and the customer identification interface is a keypad and a biometrics subsystem.

However, Pare discloses, in the same field of endeavor of object detection system, the customer identification interface is a keypad and a biometrics subsystem (col. 5, lines 19–22, and keypad (14) and biometric input device (12)) to provide the higher level of security. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the customer identification interface is a keypad and a biometrics subsystem in the device of Larson in view of Buckens evidenced in the device of Pare because Larson in view of Buckens suggests

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key associated with the customer identification and Pare teaches the customer identification interface is a keypad and a biometrics subsystem to provide the higher level of security.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final act.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is (703) 306-5841. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703-305-4704). The fax phone number for the organization where this application or proceeding is assigned is (703-305-3988).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu

February 19, 2005



MICHAEL HORABIK
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